

MAINE LAND USE PLANNING COMMISSION
Department of Agriculture, Conservation & Forestry
22 State House Station - Augusta, Maine 04333-0022
TEL (207) 287-2631 FAX (207) 287-7439

MINUTES

REGULAR MONTHLY MEETING

Jeff's Catering, 15 Littlefield Way, Brewer
May 13, 2015

COMMISSIONERS PRESENT

Gwen Hilton, Chair	Michael Theriault	Bill Gilmore	Paul Underwood	Betsy Fitzgerald
Everett Worcester, Vice-Chair	Robert Dunphy	Charles Pray	Durward Humphrey	

STAFF PRESENT

Nicholas Livesay, Executive Director	Ben Godsoe, Senior Planner
Samantha Horn Olsen, Planning Manager	Tim Beaucage, Senior Planner
Jean Flannery, Permitting and Compliance Manager	Eric Larsson, Senior Planner
Karen Bolstridge, Bangor Regional Representative	Mary York, LUPC Augusta
Hugh Coxe, Chief Planner	

OTHERS PRESENT

Lauren Parker, Assistant Attorney General See attached Sign in Sheets

Note: Commission votes are recorded in the following order:

number voting in favor of a motion – number voting against a motion – number abstaining – number absent

ADMINISTRATIVE MATTERS

Introductions

Introductions were made by members of the Commission, its staff, and the audience.

Minute Approvals

April 8, 2015 Minutes

Commissioner Dunphy motioned to approve the minutes; Commissioner Underwood seconded;

Vote: 8-0-1-0 (Commissioner Hilton abstained)

DIRECTOR'S REPORT

Nick Livesay provided the director's report, he:

- Provided an update on wind power and mining legislation;
- Noted the AMC settlement agreement has been signed;
- Stated the St. Johns River Advisory Committee recently met in Allagash; and
- Circulated and summarized the anticipated calendar.

REZONING MATTER

C&E Real Estate (ZP 744), staff request for Commission discussion and guidance on proposal to modify area previously rezoned to D-RS, Big Moose Twp. Piscataquis County; Hugh Coxe

[note that Commissioner Theriault recused himself]

Hugh Coxe presented the discussion and reviewed prior Commission actions relating to the property including the 2014 rezoning. There has been a further lot division since the prior rezoning prompting a need for an amendment to the zoning subdistrict. The issues raised include how many lots C&E may rezone now under the adjacency analysis and how does the Commission view the various lot divisions. Several Commissioners inquired about the subdivision exemptions including the "retained lot" exemption and about the timing and order of the various lot divisions and staff provided feedback about subdivision law, zoning requirements, relevant Commission rules, and the facts and potential scenarios of the matter before the Commission.

Hugh discussed the 2014 zoning decision for C&E and the number of lots anticipated by that zoning. Commissioner Gilmore asked about the merging of the two original parcels acquired by C&E and staff and Commission discussed 2 in 5 lot splits. Commissioner Hilton asked for clarification of the questions for discussion identified in the memo. Hugh discussed the history of the lot transfers and the reasons the retained lot exemption may or may not apply. Commissioner Worcester stated that if this information were before the Commission in 2014 he does not think they would have approved the rezoning petition. Commissioner Gilmore asked about the intent of the property owner.

The second question presented by staff assumes that subdivision has not been triggered. Whether the Folsom lot should be included in the new rezoning depends on what C&E and Folsom want to do with the land going forward. The rationale behind the 2014 rezoning was discussed and the question raised about whether that rationale still applies here such that the transfer of a lot to Folsom would reduce by one, the total number of lots available to C&E for a new rezoned area. Commissioner Dunphy asked about the intent of the 2014 rezoning. Nick explained that C&E has a different view than staff as to the number of lots they may include in a new rezoning and that is the reason for bringing this discussion to the Commission. Commissioner Underwood asked to hear from C&E's representatives.

Boyd Snowden addressed the Commission. He indicated that the 2014 rezoning was intended to develop the subdivision as portrayed in 2014. The transfer of a lot to Folsom was made due to financial reasons in lieu of foreclosure. They now want to reconfigure the rezoned area for 6 subdivision lots and do not intend to develop the Folsom lot at this time. Boyd's client is concerned with using built lots as the basis for counting lots for adjacency as opposed to using subdivision lots. The reason is that excluding unbuilt lots for the adjacency count impacts future adjacency by effectively reducing the amount that could be rezoned if every lot is not developed. Commissioner Hilton asked if he is suggesting changing policy generally or if this point applies to the immediate matter. Nick explained that the question is whether they have 5 or 6 lots for adjacency at this stage and that the answer to that question would further impact the pace at which future phases could be rezoned. Commissioner Worcester stated that Folsom has a choice about what he does with his lot which has nothing to do with the LUPC's subdivision and zoning rules. Commissioner Underwood commented that the Folsom land would have to come back to the Commission if he wants to subdivide. Commissioner Gilmore asked the applicant about their intent.

Chuck Wagenheim addressed the Commission about C&E's plans to develop the remaining parcel and the prior rezoning. They are planning to develop 11 lots and financially it does not work with 7 lots. They were ok with doing it in 2 phases but for him to get financing he needs to have more lots developed. Commissioner Worcester stated that he does not know what the Commission is being asked to do. Nick suggested the Commission apply a similar rationale as it did in 2014 and that 1) C&E has not triggered subdivision, 2) the Folsom lot could be, but is not required to be, included in the new rezoning, and 3) the Folsom lot would be included in the count (just as the Moskovitz lot was in the 2014 rezoning) meaning C&E may rezone for 5 additional lots beyond the two already created (Moskovitz and Folsom).

Commissioner Pray suggests that we should look at how we have done this in the past and should remain consistent especially when there are various entities involved. Commissioner Humphrey asked about whether there have been any subdivision approvals on this land. Boyd Snowden explained the conceptual subdivision design. He

further discussed DEP's "common scheme of development" approach under Site Law. Rodney Folsom addressed the Commission to explain the guidance they are hoping to get from the Commission. He stated a lot should count for adjacency whether built on or not. Commissioner Gilmore stated that once a lot is created it should count as a lot. Commissioner Hilton pointed out that this would differ from the rationale in the 2014 rezoning. Hugh addressed the underlying purpose of adjacency stating that it looks at pacing of development based on nearby existing development, not on land division.

Commissioner Gilmore moved to support rezoning area to accommodate six new residential lots, in addition to the existing Moskovitz lot and Folsom lot; Commissioner Underwood seconded

Commissioners discussed the motion in order to clarify what was intended; staff assisted in the discussion. Rodney Folsom asked that the Commission address the underlying policy question. Commissioner Underwood stated he did not think there has been any effort to get around the rules. Commissioner Worcester suggested that the rules can favor some property owners in some instances. Commissioner Humphrey stated that adjacency should count surveyed lots.

Commissioner Underwood withdrew his second; Commissioner Gilmore withdrew his motion

Samantha Horn Olsen summarized the rules for counting lots and the prior zoning decision and indicated that what needs to be decided is whether the Commission intends to follow the prior zoning decision and, if not, on what basis it is changing that decision. Boyd Snowden suggested that one of the lots is a "2 in 5" lot and that the Moskovitz lot should count as a lot for future adjacency.

Commissioner Hilton asked if the motion (Commissioner Dunphy's motion) is consistent with the prior decision and staff indicated it is. Commissioner Pray asked if the motion includes having them bring back a plan. Commissioner Humphrey suggested the adjacency rule does not work in this instance and that they should have seven lots. Samantha stated that the original decision did include the 2 in 5 lots.

Commissioner Dunphy moved to support rezoning an area to accommodate five new residential lots, in addition to the existing Moskovitz lot and Folsom lot; commissioner Worcester seconded

Vote: 4-4-1-0 (Commissioners Dunphy, Fitzgerald, Hilton, and Worcester in favor; Commissioners Gilmore, Humphrey, Pray, and Underwood opposed; Commissioner Theriault recused)

Nick explained that this motion (Commissioner Humphrey's) would require a change in the rationale from the the 2014 rezoning.

Commissioner Humphrey moved to support rezoning an area to accommodate six new residential lots, in addition to the existing Moskovitz lot and Folsom lot; Commissioner Pray seconded

Vote: 3-5-1-0 (Commissioners Humphrey, Pray, and Underwood in favor; Commissioners Dunpy, Fitzgerald, Gilmore, Hilton, and Worcester opposed; Commissioner Theriault recused)

Commissioner Hilton pointed out that the complexity of this matter makes it difficult to know how to move forward. Hugh stated that this is a request for guidance but that if the Commission does not have guidance then the applicant will come back with a rationale for what they are seeking and the Commission can decide the matter then. Commissioner Pray stated he is concerned about how these rules have been interpreted in the past and how previous decisions have been decided. Hugh stated that as long as the green part of the map qualifies as a retained lot, there has not been a subdivision. Samantha stated that staff and the applicant can look to see whether there has been other development in the area that could be used for the adjacency count. Commissioner Humphrey

asked that staff and the applicant look to see if anything has changed that would serve as a basis for a different decision.

Commissioner Pray moved to table; Fitzgerald Seconded
Commissioner Fitzgerald withdrew second; Commissioner Pray withdrew motion

Staff will continue to assist the prospective petitioner.

PLANNING/RULEMAKING MATTERS

Subdivision Rules Review, presentation and discussion of draft report from stakeholder workshops and introduction of policy issues; Samantha Horn Olsen

Samantha Horn Olsen presented a review of the stakeholder process for a subdivision rule revision process, including a draft report prepared by the consulting facilitator, and initial comments from stakeholders who had reviewed the draft report.

Commissioner Fitzgerald expressed appreciation for the high level of discussion in the facilitated process and the consideration for thoughtful development. Commissioner Theriault suggested that stakeholder participants in the process be given the opportunity to address the commission directly. Commissioner Dunphy suggested scheduling a commission meeting devoted to this process. Commissioner Worcester stated that the process was sound and will result in improvements to the rules even if further adjustments are needed.

Samantha gave a presentation outlining a proposed process for developing ideas identified during the stakeholder process into specific rulemaking changes, as well as an overview of the policy goals that would direct that process. Commissioner Dunphy recommended opening the process to public participation earlier rather than later. Chair Hilton noted that reaching out to the individual landowners was important and the involving of landowners was always a challenge in planning.

Chair Hilton asked for a confirmation of the proposed process and next steps. Samantha confirmed that staff would present options for revising technical standards at the June meeting, and would make initial presentations on subdivision types, layouts and development standards at the July meeting. Commissioner Underwood suggested providing lunch and some specific proposals to encourage attendance and participation at any public meeting. Samantha agreed and confirmed a preference for involving the public sooner rather than later.

Chair Hilton wondered if it was possible to use an online survey like the customer satisfaction survey already in use. Samantha said that this might be possible, but also suggested the use of focus groups. She noted, however, that the first step in any public process was to clearly identify the topics that would engage the public.

Commissioner Humphrey asked for an estimate of the total time needed. Samantha responded that it would depend on a number of factors, but estimated that it would take the rest of the year to be ready for the formal rulemaking process. She noted that the technical standards would move forward more quickly, and that for the policy-oriented topics the Commission could direct the amount of detail required in order to manage the length of the process.

Commissioner Dunphy asked if staff was seeking a particular approval at this time. Samantha responded that a show of general agreement by the commission was sufficient. Chair Hilton confirmed that the commissioners supported the proposed outline for proceeding.

Chapter 10 Rulemaking, regarding designation of historical or culturally significant areas; consideration for adoption; Ben Godsoe

Ben Godsoe presented an overview of a proposed rulemaking to allow the Commission to designate areas of cultural, historical, or other special significance.

Within a DACSS, applicants would be able to apply for a permit to reconstruct in place or expand legally existing, nonconforming structures, provided that proposed reconstruction projects conform to the purpose of designation. In designating a proposed area, the Commission would consider the unique cultural or historic characteristics of the proposed area that may benefit the public by preserving the look and feel of the community, attracting visitors and new residents, and enhancing the quality of life for residents. Once an area is designated by the Commission, its purpose, specific geographic location, and other relevant information would be recorded in Chapter 10, Appendix G, and property owners within the designated area would then be able to apply for a permit to reconstruct in place or replace structures, so long as the proposed reconstruction project conforms with the purpose of the designation.

Commissioner Dunphy asked for clarification that there was a process in place for removing a designation if needed. Designation would not preclude property owners from reconstructing legally existing, nonconforming structures in accordance with Chapter 10, Section 11. Additionally, the rule would allow for removal of a designation if structures or features within a DACSS no longer meet the purpose for which it was designated.

Commissioner Underwood wanted to ensure that the boathouses in Grand Lake Stream Plantation would be able to be reconstructed within the time frame drafted in the rule. Reconstruction of the boathouses would be possible within 2 years of designation of the area as a DACSS. Additionally, the Commission has the ability to waive this requirement if needed.

Commissioner Fitzgerald motioned to approve staff recommendations; Commissioner Gilmore seconded; Vote: 9-0-0 Unanimous

Designation of Area of Cultural or Special Significance, consideration of whether to post for public comment proposed designation of area in Grand Lake Stream, Washington County; Ben Godsoe

Ben Godsoe presented proposed designation of the Grand Lake Stream Plantation Boathouses and Waterfront as a Designated Area of Cultural or Special Significance (DACSS), adoption of which is the companion rulemaking to this agenda item. The staff recommendation was to post the proposed rulemaking for public comment *after* the companion DACSS rulemaking becomes effective. Public Comments will be helpful when the Commission considers whether or not to designate this area as a DACSS.

The proposed DACSS includes the boathouses and public boat launches located in Hatchery Cove near the outlet to West Grand Lake. Three of the boathouses in this area were destroyed by fire on May 14, 2014. Within a DACSS, applicants are able to apply for a permit to reconstruct in place or expand legally existing, nonconforming structures, provided that proposed reconstruction projects conform to the purpose of designation. The boathouses and waterfront area are an iconic location in the village that has been a familiar visual backdrop for residents and visitors for the last 100 years. Grand Lake Stream remains one of Maine's most iconic destinations for fishermen. The proposed area has played a crucial role in the evolution of recreational guiding and is the gateway to the region's extensive woods and waters. Residents and visitors use the proposed area to access the water and refer to it as the "core of the town".

The proposed area appears to meet the three criteria outlined in the DACSS rule: 1) It is an iconic location often described by residents as the “core of the town”; 2) it is a geographically definable area; and 3) it provides public benefits by adding to the quality of life for residents and contributing to the level of economic activity in the community by drawing visitors who spend money at local businesses and support the recreational guiding industry.

Commissioner Gilmore motioned to approve staff recommendations; Commissioner Fitzgerald seconded; Vote: 9-0-0 Unanimous

Chapter 10 Rulemaking, regarding recreational lodging facilities and revegetation standards; consideration for adoption; Samantha Horn Olsen and Tim Beaucage

Samantha Horn Olsen and Tim Beaucage presented a request for the Commission to adopt proposed revisions to Chapter 10, regarding recreational lodging facilities and revegetation standards. This rulemaking represents a cleanup of assorted items following the 2013 comprehensive rewriting of standards for recreational lodging facilities. In 2014 staff conducted fieldwork to experience and contemplate the influence of cleared area upon the overall impacts of facilities. Specifically, staff found that site topography, and the integrity of the vegetative buffer are most influential in contemplating cleared areas for the categorization of recreational lodging facilities.

As a result, the Commission posted to public comment administrative corrections, clarifications, expansion of clearing limits, and revegetation standards. The 30-day comment period resulted in four letters of comment.

Samantha indicated that some comments were consistent with what was proposed or that was consistent with staff recommendation, specifically: residential campsite definition, dimensional requirements for campsites, remaining crown or canopy, and a qualified professional.

Samantha explained that there were a number of comments where the staff recommendation is not consistent with the comments received, and therefore warrant highlighting for the Commission.

- Transient occupancy

While the commenter suggested that the limit be increased to accommodate seasonal residents, the change must conform with statutory requirements.

Commissioners Theriault and Underwood inquired about the interaction of the Commission’s rules and statute, and the process of seeking a change in statute. Samantha clarified that even if the Commission increased the limit in its rules, the statute would control, then our rules would be confusing. Staff has not tried to come to any conclusions whether statute should change in law, but have noted that this rulemaking could not include such a change and be consistent with law.

Commissioner Humphrey inquired about what would happen if statute changed, would the change in our rules be automatic or would the Commission need to undertake rulemaking. Staff confirmed that in a case like this, the statute would trump our rules and the Commission would need to undertake rulemaking to again be consistent with statute. A discussion ensued as to the value of restating statute in our rules versus referring the reader to statute, focusing on avoiding conflicts versus maintaining a simplistic resource.

Commissioner Dunphy inquired about how the staff enforces the standard. Samantha indicated that this is a threshold that is less about regular monitoring, but provides a clear standard to be relied upon for compliance and in advising applicants. Nick Livesay added that this definition also aids in distinguishing between and regulating campsites and dwellings.

- **Structure height**
A comment suggested that structure height limits for campsites is not necessary; however, staff confirmed that a number of campsites include structural development, such as lean-tos, and that the rules should be clear and consistent.
- **Dimensional requirements for residential campsites**
A comment suggested that residential campsites should not be accountable to the same dimensional requirements as residential uses. However, staff indicated that because residential campsites are allowed to include pressurized water and any number of accessory structures, the use is more similar to residential development than to campsites; residential dimensional requirements are appropriate. Commissioner Dunphy inquired whether this regards individual campsites or group campsites. Samantha confirmed that the Commission's rules do not distinguish between individual or group campsites. Commissioner Pray asked on the number of residential campsites exist in the Commission's service area. Staff indicated that because this use listing was only added in the fall of 2013 there currently may be only a few, but interest in them is steady and increasing.
- **Clearing limits for the categorization of recreational lodging facilities**
One comment indicated that the increased clearing limits were too much change at once, and one comment supported the increase as a reasonable change that was consistent with the stakeholder process. Staff recommendation to retain the proposed increased limits would still address the Commission's decision criteria, provide flexibility, and are more consistent with the originally anticipated results.
- **Allowance for recreational lodging facilities to exceed clearing limits**
A comment noted that allowing to exceed the clearing limits is excessive, especially in addition to the proposed increase to the limits. Staff recommendation to retain the proposed ability to exceed limits would still address the Commission's decision criteria, provide flexibility, and are more consistent with the originally anticipated results. Commissioner Humphrey inquired whether the standard considers fire safety or site distances along narrow roads. Samantha indicated that those examples of why the ability to exceed the standards might be appropriate, and if designed to achieve comparable results would be appropriate. Commissioner Hilton noted that many pre-Commission recreational lodging facilities include clearings that extend to the waterbody, and inquired how those facilities would be addressed. Samantha confirmed that the revisions include provisions to address these types of situations, generally ensuring that the situation is not made worse.
- **Revegetation**
 - **location**
A comment suggested that the standards should allow revegetation of other areas, not just the same segment of shoreline. Staff indicate that this type of flexibility would be inappropriate or outweigh the benefits; and may incentivize violations.
 - **saplings**
While a comment suggested that seedlings should be allowed in addition to saplings, staff recommendation notes that saplings provide a more immediate visual presence, and that the existing proposed revisions include opportunities for variations from certain criteria, including the planting of saplings.
 - **number of species**
A comment indicated that requiring three species is unnecessary, and that some site conditions may be better suited to fewer species. Staff recommendation considers consistency with the DEP standards, avoiding risks and effects of disease and infestation, and the rules allow for variations from certain criteria, including the requirement for three species.

- survival rate

While a comment suggested that revegetation efforts be accountable to eighty percent survival over 10 years, staff recommend retaining the eighty percent over five years to best maintain an appropriate responsibility to ensure success, maintain an appropriate burden upon the owner, and minimize administrative difficulties on the agency. Commissioner Worcester inquired whether revegetated sites are inspected prior to the five year period. Staff noted that site inspections in this regard are complaint driven and spot checks.

- timeframe of plan and revegetation

A comment suggests that the rule should provide a specific timeframe for a plan and revegetation; however, LUPC permitting and enforcement procedures provide sufficient requirements and flexibility to accommodate a full range of situations. Commissioner Fitzgerald inquired whether agency policies include a timeframe. Samantha confirmed that while the standards do not include specific timeframes, permit conditions and settlement agreements do specify a date and enforcement actions are not considered resolved until the revegetation has met applicable standards.

Commissioner Underwood inquired how primitive campsites fit within the proposal. Samantha confirmed that primitive campsites are considered a subset of campsites and are therefore included even though they may be accountable to less stringent setback requirements.

Commissioner Pray inquired about the definition of residential campsites, particularly why tents are plural and yet other camping devices are singular; and he inquired about the distinction between 'registered' and 'legally registered'. Staff confirmed that the legally registered terminology was employed to account for the range of devices listed. Further, the definition was intended to mirror the statutory definition of campsite, which allows for up to four camping locations; since a residential campsite is limited to one camping location. Commissioner Pray was concerned that multiple RVs would not be allowed, particularly if the occupancy limits were still met. Staff suggested that revising the terms to be plural should be addressed through a later set of miscellaneous rule revisions. Commissioner Pray also suggested that while multiple RVs should be allowed, there should be a maximum number to avoid issues.

Commissioner Underwood noted that comments provided by Sara Medina were accurate, particularly regarding dimensional requirements for campsites. Staff confirmed that the result of the staff recommendation are more permissive than she suggested.

Commissioner Underwood motioned to approve staff recommendations; Commissioner Humphrey seconded; Vote: 9-0-0-0 Unanimous

RULEMAKING MATTER

Chapter 10 Rulemaking, regarding dimensional standards for public recreation facilities; consideration for adoption; Hugh Coxe

Hugh Coxe presented the proposed rule revision and explained the purpose of the rule. The rule pertains to exceptions to dimensional requirements for public boat launches. One comment was received from LUPC staff which related to how campsite dimensional standards are reviewed and applied. The past practice of not applying dimensional requirements for campsites applies to areas within the Plum Creek Concept plan area and therefore there is no need for this rule to create an exception for campsites. Staff recommends approval of the rule.

Commissioner Humphrey motioned to approve staff recommendations; Commissioner Fitzgerald seconded; Vote: 9-0-0-0 Unanimous

ENFORCEMENT MATTER

Lassell Island, LLC (EC 13-17), consideration of settlement agreement regarding retaining walls, Lassell Island, Knox County; Karen Bolstridge

Karen Bolstridge gave a presentation on a revised settlement for Enforcement Cases EC 13-17, involving retaining walls constructed without a permit on Lassell Island. Under the terms of the proposed settlement one wall must be removed and replaced with riprap and the second wall could be retained.

Commissioner Underwood asked why the settlement agreement was being recorded in two counties. Karen explained that the deed is recorded in Waldo County, however it is now considered to be in Knox County.

Commissioner Theriault questioned what would happen if we have a similar situation several months from now, potentially are we setting a precedent that will be followed, or in the future would we require someone else to remove a similar wall.

Commissioner Pray said that each situation is different and each one needs to be evaluated as to what makes sense, whether a violation is allowed to stay as it would cause more environmental impact to remove the violation. He stated that each situation should be viewed individually and there will not always be a concrete answer in black and white.

Commissioner Fitzgerald asked how far back the V-shaped retaining wall is that is remaining. Karen stated that we did not have a measurement on file just that it was less than 75 feet. The wall is no immediately on the ocean.

Commissioner Dunphy questioned what the alternative would be such as to go to the Attorney General's Office. Nick explained that the options are informal resolution, formal resolution with a negotiated settlement agreement, or if that is not agreed upon, then referral to the Attorney General's Office for enforcement in court.

Commissioner Fitzgerald motioned to approve the settlement agreement; Commissioner Pray seconded; Vote: 7-2-0-0 Passed; (Commissioners Theriault and Humphrey opposed)

PERMITTING/CERTIFICATION MATTER

Chapter 10 Interpretation, staff request for discussion and interpretation of appropriate land use category for proposed solid waste transfer station; Moosehead Junction Township, Piscataquis County; Nicholas Livesay

Commissioner Theriault, the owner of Mike Theriault Construction, LLC, recused himself from the matter.

Nick Livesay provided a general overview of the solid waste transfer station proposed by Theriault Construction in Moosehead Junction. The transfer station would burn wood construction and demolition debris and other woody waste. Nick noted the transfer station would consist of a 1.98 acre waste handling area proposed to be located on a lot leased from Laura Theriault that is currently zoned M-GN. Access to the waste handling area would be along an access road from Industrial Way across a lot owned by Theriault Construction to the back lot owned by Laura Theriault. The Theriault Construction lot is located within the Moosehead Industrial Park and zoned D-CI.

Nick stated the question for the Commission is how should the proposed use, the transfer station, be characterized and categorized. The answer is important because that would determine whether the proposed use would require rezoning the project area currently within the M-GN Subdistrict. He summarized the two key land use categories, solid waste disposal facilities affecting an area less than two acres in size and the other similar uses category. He

explained that since disposal was not proposed at the facility treating the proposed transfer station as a solid waste disposal facility affecting an area less than two acres in size did not appear to be an option. Nick presented three possible ways to interpret and apply Ch. 10 to the proposed use: A) treat the transfer station as affecting an area less than two acres, and, therefore, as similar in type, scale and intensity as a solid waste disposal facility affecting less than two acres; B) treat the transfer station as affecting an area more than two acres, but still as similar in type, scale and intensity as other allowed uses in the M-GN; or C) treat the transfer station as not allowed in the M-GN.

Mike Theriault explained how the proposed location of the waste handling area was selected. He noted it would be located within a cleared area that used to be a racetrack. He explained that the reason for pursuing a permit for a transfer station was to solve a problem because he could not continue to burn wood waste and demolition debris imported from offsite. DEP staff suggested opening a transfer station as a solution to the prohibition from burning offsite waste without a permit; a transfer station would benefit others with wood waste as well. Mike estimated four to five truck loads per week would enter the transfer station. For comparison, Mike noted that Theriault Construction currently uses the back lot area as an aggregate yard and that on a busy day 25 to 35 trucks go in and out of that area. This is a heavy traffic area, both the area used by Theriault Construction and the whole industrial park.

Commission members discussed the alternatives and asked clarifying questions about the proposal.

Commissioner Humphrey moved to direct staff to apply interpretation option “B”; Commissioner Underwood seconded; Vote: 7-0-1-1 (Commissioner Theriault recused himself; Commissioner Fitzgerald not present for vote.)

OTHER MATTERS

Commissioner Comments – N/A

ADJOURN

Meeting adjourned at approximately 4:00pm.